SCS Agency
Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: House | Analyst: Marion Mann DeJong | Bill Number: AB 2370

Related Bills: See Legislative History | Telephone: (916) 845-6979 | Introduced Date: 02/20/98

Attorney: Doug Bramhall | Sponsor:

SUBJECT: Investment Of Capital In A Qualified Newspaper Credit

SUMMARY

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would provide a tax credit equal to the amount paid or incurred as an investment of capital in a qualified newspaper.

EFFECTIVE DATE

As a tax levy, this bill would become effective immediately. However, the bill specifies that it would apply to taxable or income years beginning on or after January 1, 1999, and before January 1, 2009.

SPECIFIC FINDINGS

Existing state and federal laws generally allow a depreciation deduction for the obsolescence or wear and tear of property used in a business or investment property. The property must have a limited, useful life of more than one year and includes equipment, machinery, vehicles and buildings but excludes land. Property is assigned to specific classifications related to the number of years of its useful life. The property then may be depreciated over the number of years of its useful life (recovery period).

Existing state and federal laws allow a taxpayer to deduct expenses paid or incurred in the ordinary course of a taxpayer's business.

Federal and state laws provide various tax credits that are designed to provide tax relief for taxpayer who incur certain expenses (e.g., child and dependent care credits) or to influence behavior, include business practices and decisions (e.g., research credit, manufacturers' investment credit).

This bill would provide a tax credit equal to the amount paid or incurred as an investment of capital in a qualified newspaper.

"Qualified newspaper" would mean a daily newspaper of general circulation that

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE ____ GOVERNOR'S APPOINTMENT

Board Position:	Agency Secretary Position:	GOVERNOR'S OFFICE USE
____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR ____X____ PENDING	____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR DEFER TO ____________	Position Approved ____ Position Disapproved ____ Position Noted ____
Department Director Date G. Alan Hunter 3/24/98	Agency Secretary Date	By: Date

has not been published before the taxable or income year in which the credit is claimed and that is published in a qualified area. A qualified newspaper would not include any newspaper that is published by any entity related to the one existing daily newspaper in that area.

"Qualified area" would mean a geographical region in California that (1) is served by only one daily newspaper before the publishing of the qualified newspaper and (2) has a population of 75,000 or more.

The maximum amount of credit would be $50,000 per taxpayer and $20 million per qualified newspaper. The taxpayer could claim the credit only once. No credit would be allowed to any person who is an owner, member of the board of directors, or shareholder with material interest in any existing newspaper.

If a taxpayer's allowable credit cannot be used in any given year, the excess would be carried over to future years. The general rules regarding the division of credits would apply and this credit may not reduce the tax below tentative minimum tax for alternative minimum tax purposes.

Policy Considerations

Although this bill would benefit the second newspaper that serves an area with a population of 75,000 or more, no benefit would be provided for newspapers in small communities. Further, this bill would not provide a benefit for areas with a population of 75,000 or more without a daily newspaper.

Implementation Considerations

The provisions of this bill would raise the following implementation considerations. Department staff is available to assist the author with any amendments.

- The terms "capital," "daily newspaper," "general circulation," "related," "geographical region," and "material interest" are not defined. Until these terms are defined, the department cannot determine what taxpayers are eligible for the credit. For example, since many geographical regions are served daily by a number of different newspapers located in larger metropolitan areas, could they still qualify a newspaper for the credit?

- Since the bill does not require the production of the newspaper to begin before the credit can be claimed by the investors, it is unclear what would happen to the credits if the paper is never published or it is terminated soon after publication begins.

- It would be difficult for the department to ensure that the credit per qualified newspaper does not exceed $20 million. Generally, some kind of certification is required for other tax credits to ensure the maximum is not exceeded.

  Further, it is unclear how to divide the credit among investors if the maximum investment is in excess of $20 million. Would the credit be allowed on a first-come first-serve basis or allocated based on the amount invested by taxpayer?

- Since this bill does not limit the carryover of the credit, the department would be required to keep the credit on the credit tables and instructions indefinitely. Most credit carryovers are exhausted within eight years.

FISCAL IMPACT

Departmental Costs

If amended to resolve the implementation considerations, this bill would not significantly impact the department's costs.

Tax Revenue Estimate

Due to the broad interpretation that can be given to this bill as written, potential revenue losses could be significant, possibly on the order of $10 million for the first full year. A taxpayer could divert up to $50,000 of their state tax to promoters for which actual publication may or may not result.

Tax Revenue Discussion

Revenue losses would be determined by the number of individuals and businesses that invest in a qualified newspaper, the amount of investment, and the amount of credits that could be applied against available tax liabilities in any given year.

There are approximately 85 incorporated and unincorporated areas in California with a population of 75,000 or more which could be qualified areas. It is unknown how many of these areas are served by daily newspapers.

As a rule of thumb, if one qualified newspaper were established by no more than 400 taxpayers at one-half the maximum credit, the revenue loss would be $10 million.

BOARD POSITION

Pending.